

**IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ZT IP, LLC,

Plaintiff,

v.

VMWARE, INC.,

Defendant.

Case No. 3:22-cv-970-X

JURY TRIAL DEMANDED

**DECLARATION OF DANIEL LIN
IN SUPPORT OF VMWARE, INC.'S MOTION FOR RULE 11 SANCTIONS**

I, Daniel Lin, declare:

1. I am a Vice President and Deputy General Counsel at VMware, Inc. (“VMware”). I make this declaration from my own personal knowledge and, if called as a witness, I would testify to these facts.

2. VMware is a market-leading cloud computing and virtualization technology company based in Palo Alto, California.

3. I have personal knowledge pertaining to the filing of this lawsuit, *ZT IP, LLC v. VMware, Inc.*, 3:22-cv-970 (N.D. Tex., 2022), and communications between VMware’s in-house legal counsel and ZT IP, LLC’s (“ZT”) counsel.

4. On May 2, 2022, ZT sued VMware for allegedly infringing the ’583 patent by “maintain[ing], operat[ing], and administer[ing] systems, products, and services that facilitate developing real time operating system.”

5. On June 1, 2022, I participated in a Zoom call with ZT’s counsel, William Ramey, along with another in-house lawyer for VMware, Danielle Coleman.

6. Mr. Ramey attended the Zoom call on behalf of his client ZT. Mr. Ramey was approximately 15 minutes late to the call.

7. During the June 1 Zoom call, I presented a news release showing that the accused product, ESX Server, version 1.5, was commercially released over a year before the ’583 patent’s priority date therefore making the ’583 patent invalid.

8. I further presented VMware release notes showing that VMware had moved away from the “service console” in its release of ESX Server 4.1 in 2010, over 10 years before this lawsuit, by shifting its ESX architecture to its ESXi architecture in that release.

9. I provided public links confirming these representations using Zoom’s chat feature. Specifically, I provided links to (i) VMware’s announcement of its ESX Server 1.5 commercial release, *available at* <https://news.vmware.com/releases/esx15>, (ii) VMware’s release notes indicating its shift from the ESX architecture to its new ESXi architecture in 2010, *available at* <https://web.archive.org/web/20130313233221/http://www.vmware.com/support/vsphere4/doc/vs>

p_esx41_vc41_rel_notes.html, and (iii) VMware's white paper noting the absence of the service console in its newer ESXi architecture, *available at* https://www.vmware.com/content/dam/digitalmarketing/vmware/en/pdf/techpaper/ESXi_architecture.pdf.

10. Mr. Ramey orally confirmed he had copied all these links to share with his client.

11. I asked that Mr. Ramey dismiss the case in view of these fundamental defects.

12. Mr. Ramey did not dismiss the case.

13. Mr. Ramey requested a follow-up Zoom meeting for June 8, 2022, to discuss VMware's positions.

14. Mr. Ramey did not appear on the June 8, 2022 Zoom call.

15. On June 9, 2022, my colleague, Danielle Coleman sent Mr. Ramey an email reiterating the fundamental defects with ZT's case and providing the public links in support, as well as screenshots. VMware again reiterated its hope that ZT would have dismissed the case in view of these defects before the missed June 8, 2022 Zoom call. I was copied onto the email correspondence.

16. ZT's counsel did not respond.


17. Having heard nothing, VMware retained outside legal counsel.

18. On June 13, 2022, via letter sent to ZT's counsel by outside counsel, VMware again explained to ZT how the Complaint and claim chart illustrate its lack of a good-faith basis for bringing this case. VMware specifically advised ZT that it would pursue recovery of its fees and costs if ZT did not dismiss the lawsuit promptly.

19. ZT and its counsel still did not respond.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

Executed this 16 day of June, 2022, at San Francisco, California.

DocuSigned by:

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Daniel Lin